

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:14-CR-00147-RJC-DCK

USA

v.

RODERICK LAUADES BROWN (1)

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ORDER

THIS MATTER is before the Court upon motion of the defendant pro se to reissue the Order, (Doc. No. 86), denying his motion to reconsider, (Doc. No. 85), so that he can file a timely appeal. (Doc. No. 88).

The defendant filed a motion to remove information from the Presentence Report so that he could benefit from 18 U.S.C. § 3621(e), (Doc. No. 82), which the Court dismissed on July 1, 2019, (Doc. No. 83: Order). Instead of filing an appeal, the defendant filed a motion to reconsider on July 26, 2019, (Doc. No. 85), which the Court denied on August 7, 2019, (Doc. No. 86). Again, the defendant did not appeal, but rather filed a motion to ascertain status on September 17, 2019, asserting he had not received any communication from the Court about the motion for reconsideration. (Doc. No. 87). The Court found that motion moot because the docket reflected that the previous order had been sent to the defendant's place of confinement and ordered that another copy of the order be sent to him.¹ (Text-only Order, Sept. 18, 2019). The defendant still did not appeal, but placed the instant motion in the prison mail system on October 2, 2019. (Doc. No. 88 at 2).

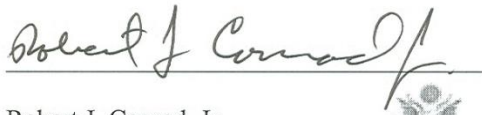
¹ The docket reflects that the same address was used for each mailing to the defendant.

Federal Rule of Criminal Procedure 49(d) states that the lack of notice does not affect the time to appeal or give a court authority to excuse an untimely filing, except as provided in Federal Rule of Appellate Procedure 4(b). Rule 4(b)(4) allows an extension up to 30 days from the 14-day deadline for excusable neglect or good cause. A district court may not republish an order to allow a defendant to file a timely appeal. United States v. Little, 392 F.3d 671, 682 (4th Cir. 2004), modified on other grounds, United States v. Urutyan, 564 F.3d 679, 686 (4th Cir. 2009). Here, even if the defendant did not receive the first copy of the Order denying reconsideration, the defendant did not file a notice of appeal before the deadline or seek an extension to do so. Rather, he asks the Court to reissue the Order so he can file a timely appeal, which is prohibited.

IT IS, THEREFORE, ORDERED that the defendant's Motion for Reissuance of Order, (Doc. No. 88), is **DENIED**.

The Clerk is directed to certify copies of this Order to the defendant and the United States Attorney.

Signed: October 8, 2019


Robert J. Conrad, Jr.
United States District Judge

